

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

WILLOUGHBY ESTATES LLC,

Case No. 19-45886 (cec)

Debtor.  
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**STIPULATION AND ORDER WITHDRAWING MOTION TO DISMISS**

CSRE LLC and Yechezkel Strulovitch (collectively the “Movants”) having filed a motion to dismiss (the “Motion to Dismiss”) this case on November 5, 2019 [~~Docket #~~ **ECF No. (CEC)** 24]; the above captioned debtor (the “Debtor”) having filed Opposition to the Motion dated November 15, 2019 [~~Docket #~~ **ECF No. (CEC)** 26 ]; this Court having entered a Stipulation And Order Setting Contested Matter Scheduling on November 21, 2019 [~~Docket #~~ **ECF No. (CEC)** 29], the parties having served discovery requests on each other and non-parties in connection with the Motion to Dismiss (the “Discovery Requests”); it is

STIPULATED AND AGREED:

1. The Motion to Dismiss is withdrawn with prejudice, with the same res judicata, collateral estoppel, and law of the case effect, in this bankruptcy case only, as if the Motion to Dismiss had been denied;
2. The Movants, solely for purposes of this bankruptcy case, concede that (i) this bankruptcy case was properly commenced (ii) Raphael Barouch Elkaim, Binyomin Schonberg, and Binyomin Halpern are the sole co-managers of the Debtor (iii) Raphael Barouch Elkaim, Binyomin Schonberg, and Binyomin Halpern are the sole co-managers of Willoughby Estates Operations LLC and (iv) that for all purposes relevant

to this bankruptcy case, including voting on a plan of reorganization and applications for financing to be made by the Debtor in connection with any plan of reorganization, the membership interests as listed in Exhibit A annexed hereto shall be deemed true and correct as of the filing date of the Bankruptcy Petition.

3. The concessions made in Paragraph 2 of this Stipulation are not intended to have, and do not have, any force or effect outside of the captioned bankruptcy case, except that the Movants, with respect to (A) the individuals who signed corporate resolutions authorizing the filing of this case and (B) the individuals who caused this case to be filed, hereby waive any claim they may have against these individuals for signing the resolutions and causing this case to be filed, provided that such waiver is not deemed an admission, outside this bankruptcy case, of their authority to have done so. No party is authorized to submit this stipulation in connection with any other legal matter, except in connection with any claim asserted by Movants that has been waived by this Paragraph 3.

**[Order continued on following page] (CEC)**

4. All of the Discovery Requests are hereby withdrawn.

Nutovic & Associates  
Attorneys for the Debtor

Herrick, Feinstein LLP  
Attorneys for CSRE LLC and Yechezkel  
Strulovitch


By: /s/ Isaac Nutovic  
Isaac Nutovic

By: /s/ Scott C. Ross  
Scott C. Ross

SO ORDERED:

**Dated: Brooklyn, New York  
December 23, 2019**



  
Carla E. Craig  
United States Bankruptcy Judge